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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,667	12/20/2005	Toni Jane Cherrett	920670-100964	7853
23644 7590 07/24/2009 BARNES & THORNBURG LLP P.O. BOX 2786 CHICAGO, IL 60690-2786				
EXAMINER ABBOTT, YVONNE REINIE				
ART UNIT 3644		PAPER NUMBER		
NOTIFICATION DATE 07/24/2009		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Patent-ch@btlaw.com

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/561,667

Applicant(s)

CHERRETT, TONI JANE

Examiner

Yvonne R. Abbott

Art Unit

3644

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 July 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Yvonne R. Abbott/
Primary Examiner, Art Unit 3644

Continuation of 11, does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. With respect to Applicant's assertion of the absence in the cited prior art of "continuous leg holders", it is maintained that the references do disclose straps that hold the animals' legs. For example, the Wacker reference shows where straps in conjunction with the coat form a continuous loop that extends continuously around the leg of the animal. Further, Applicant's own specification states that the "endless loops of material may be ... from one or more pieces of material that are permanently joined as by stitching or other joining means" (page 4, lines 8-10). As such, the Wacker reference meets this definition. Additionally, the cited prior art does also show leg holders having at least portions above the lower level of the side portions. As to the argument that Wacker fails to show closure means for the two side portions, Figure 4 shows that the middle band forms a closure between the left and right sides. With respect to the argument against application of the Borbridge reference, it should be noted that Fig. 1 shows the snap hooks (17) and supporting members (15) as releasably retaining the side portions in raised positions. Further it is maintained that snap hooks and tape are considered alternate equivalent fastening and retaining means capable of conveniently and releasably retaining the coat in a raised position. McComb is cited to teach obviousness to provide leg holders with more depth. Such depth can be useful for many purposes (to provide warmth, cushioning, prevent injury, etc). That Applicant intends to use the length/ depth of their leg holders for different purposes does not negate the claimed structure being taught by the prior art. With respect to the Brezinski reference, it should first be noted that the practice of measuring and cutting patterns used to sew garments is notoriously well known. Also, it is maintained that Brezinski teaches such a method (col. 6, lines 39-67, col. 5, lines 13-65).